

# **Lobbying Registration and Disclosure: Before and After the Enactment of the Honest Leadership and Open Government Act of 2007**

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## Summary

On September 14, 2007, President George W. Bush signed S. 1, the Honest Leadership and Open Government Act of 2007 (P.L. 110-81), into law. The Honest Leadership and Open Government Act (HLOGA) amended the Lobbying Disclosure Act (LDA) of 1995 (P.L. 104-65, as amended) to provide, among other changes to federal law and House and Senate rules, additional and more frequent disclosure of lobbying contacts and activities. This report focuses on changes made to lobbying registration, termination, and disclosure requirements and provides analysis of the volume of registration, termination, and disclosure reports filed with the Clerk of the House of Representatives and the Secretary of the Senate before and after the HLOGA's passage. This report does not analyze the content of these reports.

Under the LDA, as amended by the HLOGA, the Clerk and the Secretary manage the collection of registration, termination, and disclosure reports made by lobbyists and lobbying firms. Prior to the HLOGA, lobbyists and lobbying firms were required to submit semi-annual reports to the Clerk and the Secretary. The HLOGA amendments to the LDA modified reporting requirements to require quarterly filing of disclosure and termination reports. These forms are available for public inspection from the Clerk's and Secretary's websites.

The filing of registration, termination, and disclosure reports under the HLOGA amendments has continued at approximately the same pace as under the LDA. Examining data for filings between 2001 and 2007 under the LDA, and for 2008 through 2010 under the HLOGA amendments, reveals that the number of new registrations has remained mostly consistent under the HLOGA amendments. The termination reports filed by lobbyists and lobbying firms no longer representing a client have also remained constant following the implementation of the HLOGA amendments. Only disclosure reports, now filed quarterly, show a change between 2007 and 2010. Under the HLOGA amendments, the number of disclosure reports filed in the fourth quarter between 2008 and 2010 has decreased from filings between 2001 and 2007.

For further analysis on the Honest Leadership and Open Government Act and its other provisions, including amendments to House and Senate gift rules, travel restrictions, and campaign contributions, see CRS Report RL34166, *Lobbying Law and Ethics Rules Changes in the 110<sup>th</sup> Congress*, by Jack Maskell; CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell; CRS Report RS22566, *Acceptance of Gifts by Members and Employees of the House of Representatives Under New Ethics Rules of the 110<sup>th</sup> Congress*, by Jack Maskell; CRS Report RL34377, *Honest Leadership and Open Government Act of 2007: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus; and CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111<sup>th</sup> Congress*, by R. Sam Garrett.

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Since 1946, Congress has approved, on four occasions, legislation to regulate lobbyist contacts with Members of Congress. In each instance, the legislation was designed to require individuals and companies who lobby Members of Congress to register with the House of Representatives and the Senate and disclose receipts and expenditures related to lobbying.

## Statutory Registration and Disclosure Provisions

Initial registration and disclosure provisions, contained in the Legislative Reorganization Act of 1946, required lobbyists to register with Congress and disclose receipts and expenditures. In 1995, the Lobbying Disclosure Act repealed the 1946 act and created a system of detailed reporting and registration thresholds. In 1998, technical amendments to the 1995 law were passed.<sup>1</sup> In 2007, the Honest Leadership and Open Government Act amended disclosure and reporting requirements to require quarterly, instead of semi-annual reporting.

### 1946 Act

The Federal Regulation of Lobbying Act, for the first time, established requirements for individuals lobbying Congress to register with and report to the House of Representatives and the Senate. Included as part of the Legislative Reorganization Act of 1946,<sup>2</sup> the Lobbying Act did not impose restrictions on lobbying activities. Instead, it merely required individuals who lobby Congress to register with the House and Senate and disclose certain activities.<sup>3</sup> Perhaps most importantly, the Lobbying Act also imposed the requirement that all registration and disclosure statements be made under oath. Fines and possible jail time were established for incorrectly reporting lobbying contacts.<sup>4</sup>

### Registration

The Lobbying Act established the first registration thresholds for individuals lobbying Members, committees, and congressional staff. Section 308 of the act required individuals to register if they contacted Congress about legislation. The section also detailed the information required from the lobbyists:

Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States shall, before doing anything in furtherance of such object, register with the Clerk of the House of Representative and the Secretary of the Senate and shall give to those offices in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration

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<sup>1</sup> The 1998 technical amendments did not amend the Lobbying and Disclosure Act of 1995's sections on registration and disclosure.

<sup>2</sup> P.L. 79-601, 60 Stat. 839-843, August 2, 1946. Title III of the Legislative Reorganization Act of 1946 is the "Federal Regulation of Lobbying Act."

<sup>3</sup> *Political Activity, Lobbying Laws and Gift Rules Guide*, ed. Trevor Potter and Kirk L. Jowers, 2<sup>nd</sup> ed., vol. 1 (Little Falls, NJ: Glasser Legal Works, 1999), p. 1-7.

<sup>4</sup> P.L. 79-601, 60 Stat. 843, August 2, 1946. Section 309 requires that statements be made under oath. Section 310 provided for a fine up to \$5,000 and jail time of up to twelve months, or both, for individuals convicted of not providing information required under the act. Additionally, a person convicted of a misdemeanor was banned from lobbying for three years following his or her conviction.

of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included.<sup>5</sup>

## Disclosure

Following registration with the House and Senate, the lobbyist was responsible for filing quarterly disclosure statements “detailing money received and expended, persons to whom funds were paid and the purposes of the funding, the names of any publications in which he has caused any articles or editorials to be published, and the proposed legislation he sought to influence. In addition, the registrant was bound to report the names and addresses of persons who made contributions to him of \$500 or more.”<sup>6</sup>

Since the Federal Regulation of Lobbying Act regulated conduct and activities bearing on First Amendment rights, the Supreme Court narrowly interpreted its reach and breadth, and applied the registration provisions only to those whose “principal purpose” was directly lobbying Members of Congress.<sup>7</sup> This narrow interpretation excluded many persons and organizations who spent substantial time and funds on “lobbying,” but for whom such lobbying was not necessarily the principal purpose of the organization, person, or entity.

## Lobbying Disclosure Act of 1995

The Lobbying Disclosure Act (LDA) of 1995 repealed the Lobbying Act portion of the Legislative Reorganization Act of 1946. LDA also provided specific thresholds and clear definitions of lobbying activities, lobbying contacts, and who is a lobbyist, compared with the 1946 act.<sup>8</sup> In reporting the LDA, the House Judiciary Committee summarized the need for new lobbying provisions:

The Act is designed to strengthen public confidence in government by replacing the existing patchwork of lobbying disclosure laws with a single, uniform statute which covers the activities of all professional lobbyists. The Act streamlines disclosure requirements to ensure that meaningful information is provided and requires all professional lobbyists to register and file regular, semiannual reports identifying their clients, the issues on which they lobby, and the amount of their compensation. It also creates a more effective and equitable system for administering and enforcing the disclosure requirements.<sup>9</sup>

The LDA not only required that lobbyists attempting to influence Congress register with the Clerk of the House and the Secretary of the Senate, but that they file semi-annual reports on the nature of their lobbying contacts. See the **Appendix** for a list of definitions applicable to the LDA, as amended by the HLOGA.

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<sup>5</sup> P.L. 79-601, 60 Stat. 841, August 2, 1946. Section 308(a) lists the registration requirements for lobbyists.

<sup>6</sup> *Political Activity, Lobbying Laws and Gift Rules Guide*, ed. Trevor Potter and Kirk L. Jowers, 2<sup>nd</sup> ed., vol. 1 (Little Falls, NJ: Glasser Legal Works, 1999), p. 1-8. See also, P.L. 79-601, 60 Stat. 841-842, August 2, 1946. Section 308(a) contains the full listing of disclosure requirements.

<sup>7</sup> *United States v. Harriss*, 347 U.S. 612 (1954).

<sup>8</sup> P.L. 104-65, 109 Stat. 691, December 19, 1995, as amended by P.L. 105-166, 112 Stat. 38, April 8, 1998.

<sup>9</sup> U.S. Congress, House Committee on the Judiciary, *Lobbying Disclosure Act of 1995*, report to accompany H.R. 2564, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 104-339 (Washington: GPO, 1995), p. 2.

## Registration

Pursuant to LDA Section 4, lobbyists must register with the Clerk of the House and Secretary of the Senate no more than 45 days after the lobbyist first makes a lobbying contact or is employed to make a lobbying contact if the “total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed \$5,000” or the “total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed \$20,000.”<sup>10</sup>

Section 4 further required that each registration contain the following six items:

1. the registrant’s name, address, business telephone number, principal place of business, and a general description of his or her business or activities.
2. the registrant’s client’s name, address, principal place of business, and a general description of its business or activities.
3. the name, address, and principal place of business of any organization, other than the client, that contributes more than \$10,000 toward the registrant’s lobbying activities in a semi-annual reporting period, as described in 2 U.S.C. § 1604(a), and has a major role in planning, supervising, or controlling lobbying activities
4. the name, address, principal place of business, amount of any contribution of foreign entities (if any) that hold at least 20% equitable ownership in the client, directly or indirectly plans, supervises, controls, directs, finances, or subsidizes the activities of the client, or is an affiliate of the client and has a direct interest in the outcome of lobbying activities and contributes more than \$10,000 to the registrant’s lobbying activity.
5. a statement on the general issue areas the registrant expects to engage in lobbying activities on behalf of the client and, if possible, specific issues that have already been addressed or are likely to be addressed.
6. the names of the registrant’s employees who have acted or whom will act as a lobbyist on behalf of the client and if that person has been a covered executive or legislative branch official in the past two years (after December 19, 1995).<sup>11</sup>

A registered lobbyist who has multiple clients must file a separate registration form for each client. A registered lobbyist who makes multiple contacts for the same client only needs to register once. A lobbying organization that employs more than one lobbyist must submit a single registration form for each client listing all lobbyists working on behalf of that client.<sup>12</sup>

When a registered lobbyist is no longer employed by a client or lobbying organization or does not anticipate further lobbying contacts for a specific client, the lobbyist can file a registration termination form with the Clerk and the Secretary.<sup>13</sup>

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<sup>10</sup> 2 U.S.C. § 1603 (a).

<sup>11</sup> 2 U.S.C. § 1603 (b).

<sup>12</sup> 2 U.S.C. § 1603 (c).

<sup>13</sup> 2 U.S.C. § 1603 (d).

## Disclosure

Once a lobbyist or lobbying firm is registered with the Clerk and the Secretary, the LDA required the filing of semi-annual reports within 45 days of the end of a semi-annual reporting period, with a separate report filed for each client of a registered lobbyist.<sup>14</sup> Pursuant to Section 5 of the LDA, the report was required to contain the following information:

- the registrant's name, the client's name, and any changes or updates to the information provided in the initial registration;
- for each general issue area which the registrant lobbied on behalf of the client (1) a list of specific issues, including bill numbers and specific references to executive branch actions (when practicable) which lobbyists employed by the registrant engaged in lobbying activities; (2) a list of the congressional and executive branch contacts; (3) a list of registrant employees who acted as lobbyists on behalf of the client; and (4) a description of interests by foreign entities, if any;
- a good faith estimate by lobbying firms of the total amount of income generated from the client from lobbying activities on behalf of the client; ;
- if a registrant engaged in lobbying activities on its own behalf, an estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities.<sup>15</sup>

Following the disclosure by registrants, the Clerk and the Secretary are required to provide guidance to lobbyists and the lobbying community on the implementation of reporting requirements. The Clerk and the Secretary are required to

- review, verify and ensure the accuracy, completeness, and timeliness of the registration and disclosure statements;
- make a list of registered lobbyists, lobbying firms, and clients publicly available;
- create a computerized filing system; make all filing available for public inspection;
- retain registration and disclosure statements for a period of at least six years;
- summarize information contained in registrations and reports on a semi-annual basis;
- notify lobbyists or lobbying firms in writing of non-compliance; and
- notify the United States Attorney for the District of Columbia of non-compliance by a lobbyist or a lobbying firm if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days.<sup>16</sup>

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<sup>14</sup> P.L. 104-65, 109 Stat. 697, December 19, 1995.

<sup>15</sup> Ibid.

<sup>16</sup> P.L. 104-65, 109 Stat. 698-699, December 19, 1995. For more information on the role of the Clerk and the Secretary see, CRS Report RL34377, *Honest Leadership and Open Government Act of 2007: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus and U.S. Government Accountability Office, *2010 Lobbying Disclosure: Observations on Lobbyists' Compliance with New Disclosure Requirements*, GAO-11-542, April 2011.

## Honest Leadership and Open Government Act of 2007

The Honest Leadership and Open Government Act (HLOGA) of 2007 amended the LDA. HLOGA further refined thresholds and definitions of lobbying activities, changed the frequency of reporting for registered lobbyists and lobbying firms, added additional disclosures, created new semi-annual reports on contributions, and added disclosure requirements for coalitions and associations.<sup>17</sup>

### Registration

The HLOGA did not specifically amend the LDA's registration requirements. The Clerk and the Secretary, however, were for the first time required to make registration and disclosure forms available, in a searchable and sortable format, on the Internet, for public inspection.<sup>18</sup>

### Disclosure

The HLOGA amendments to the LDA made several changes to disclosure requirements. Under the LDA, lobbyists and lobbying firms were required to submit forms disclosing activities on a semi-annual basis (as discussed above under "Disclosure" of the Lobbying Disclosure Act). The HLOGA amendments created quarterly, instead of semi-annual, reporting periods and shortened the deadline for submission from 45 days to 20 days after the filing period ends. The amended text reads as follows:

No later than 20 days after the end of the quarterly period beginning on the first day of January, April, July, and October of each year in which a registrant is registered under section 4 [2 USCS § 1603], or on the first business day after such 20<sup>th</sup> day if the 20<sup>th</sup> day is not a business day, each registrant shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives on its lobbying activities during such quarterly period. A separate report shall be filed for each client of the registrant.<sup>19</sup>

The threshold for filing quarterly reports was also lowered, requiring lobbyists and lobbying firms to file reports of work when total income from lobbying exceeded \$2,500 (formerly \$5,000) and where total expenses used in connection with lobbying exceeded \$10,000 (formerly \$20,000) for any given quarterly reporting period.<sup>20</sup>

In addition to the amendments concerning quarterly reports of lobbying activity, Congress amended the LDA to create a new semi-annual reporting requirement for campaign and presidential library contributions by lobbyists and lobbying firms. These reports are due within 30 days of the end of a semi-annual reporting period.<sup>21</sup>

These semi-annual contribution reports are to contain the following information:

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<sup>17</sup> P.L. 110-81, 121 Stat. 735, September 14, 2007.

<sup>18</sup> P.L. 110-81, 121 Stat. 748, September 14, 2007. For more information on the role of the Clerk of the House and the Secretary of the Senate and statutory requirements for the public availability of registration and disclosure documents see CRS Report RL34377, *Honest Leadership and Open Government Act of 2007: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus.

<sup>19</sup> 2 U.S.C. § 1604 (a).

<sup>20</sup> 2 U.S.C. § 1603 (a).

<sup>21</sup> The semi-annual reporting period runs from January 1 to June 30 and July 1 to December 31 each year. The report is due to the Clerk of the House and Secretary of the Senate 30 days later (January 30 and July 30) or on the first business day after the 30<sup>th</sup> if the 30<sup>th</sup> falls on a non-business day. (2 U.S.C. § 1604 (d)(1)).



- the name of the person (including employer) or organization;
- the names of all political committees established or controlled by the person or organization;
- the name of each federal candidate or officeholder, leadership PAC, or political party committee, to whom aggregate contributions equal to or exceeding \$200 were made by the person or organization, or a political committee established or controlled by the person or organization, and the date and amount of each such contribution made;
- the date, recipient, and amount of funds contributed or disbursed during the semiannual period by the person or organization or a political committee established or controlled by the person or organization;<sup>22</sup>
- the name of each Presidential library foundation, and each Presidential inaugural committee, to whom contributions equal to or exceeding \$200 were made by the person or organization, or a political committee established or controlled by the person or organization, within the semiannual period, and the date and amount of each such contribution within the semiannual period;<sup>23</sup>
- a certification by the person or organization filing the report that the person or organization has read and is familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provision of gifts and travel; and has not provided, requested, or directed a gift, including travel, to a Member of Congress or an officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives.<sup>24</sup>

## Registration, Termination, and Disclosure Analysis

The Clerk of the House and the Secretary of the Senate have collected registration and disclosure data since the passage of the LDA in 1995. Using these data, it is possible to analyze registration and disclosure trends under the LDA and changes made by the HLOGA amendments. The following sections examine registration and disclosure data filed under the LDA between 2001 and 2007, and between 2008 and 2010 following the passage of the HLOGA amendments.

All data are presented from the Clerk's lobbying disclosure website. The LDA requires the Clerk and the Secretary to use a single, computer based system for lobbyists and lobbying firms to file

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<sup>22</sup> Items reported under this provision include funds donated to pay the cost of an event to honor or recognize a covered legislative branch official or covered executive branch official; to an entity that is named for a covered legislative branch official, or to a person or entity in recognition of such official; to an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or to an entity designated by such official; or to pay the costs of a meeting, retreat, conference, or other similar event held by, or in the name of, one or more covered legislative branch officials or covered executive branch officials. For additional information, see CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110<sup>th</sup> Congress*, by R. Sam Garrett; and CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111<sup>th</sup> Congress*, by R. Sam Garrett.

<sup>23</sup> For more information on contributions to Presidential library foundations, see CRS Report R40209, *Fundraising for Presidential Libraries: Recent Legislative and Policy Issues for Congress*, by R. Sam Garrett.

<sup>24</sup> 2 U.S.C. § 1604 (d).

registration and disclosure forms.<sup>25</sup> The Clerk and the Secretary, however, use different search engines and display the data differently.<sup>26</sup> Data from the Clerk are utilized because they provide distinctions between paper and electronically filed reports. The distinction between report submission methods shows compliance with the LDA requirements for electronic submissions and the rate of online filing prior to the passage of the HLOGA amendments.

Tracking these numbers is important because it enables a comparison of lobbying registration and disclosure before and after the HLOGA amendments. Analyzing the registration, termination, and disclosure data before and after the HLOGA amendments allows a systematic examination of the amendments impact on the lobbying community. If the goal of the HLOGA was to more closely regulate lobbyists by requiring additional disclosure, the data constitute an opportunity to examine the law's impact.

## Registration

Since 2001, almost 50,000 individuals and firms have registered, as lobbyists under the LDA. During that time, the number of individuals and firms that registered has varied annually. While no specific pattern has developed, it appears that with the exception of 2001, more new registrations registered in the first session of a Congress (e.g., 2003, 2005, 2007, and 2009) than in the second session (e.g., 2004, 2006, 2008, and 2010).

In addition to registering with the Clerk and the Secretary, lobbyists and lobbying firms are also required to amend registration forms when changes are made to their status, clients, contact information, or other identifying information. **Figure 1** shows the total number of new registrants per year and number of registration amendments filed per year before and after the enactment of the HLOGA amendments.

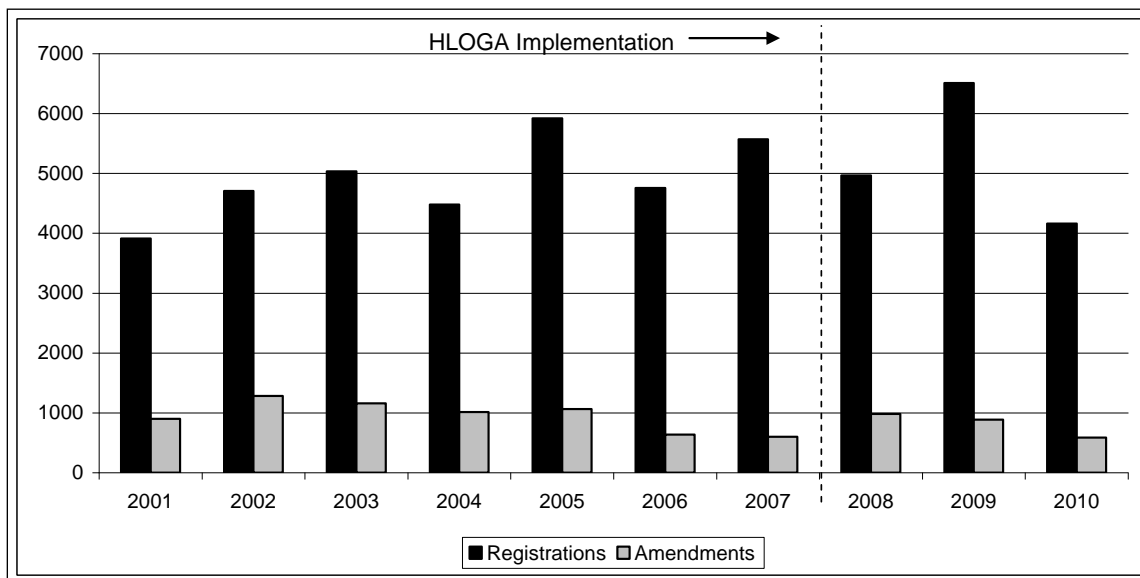
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<sup>25</sup> 2 U.S.C. § 1604 (e). "A report required to be filed under this section shall be filed in electronic form, in addition to any other form that the Secretary of the Senate or the Clerk of the House of Representatives may require or allow. The Secretary of the Senate and the Clerk of the House of Representatives shall use the same electronic software for receipt and recording of filings under this Act."

<sup>26</sup> To search for individual filing by lobbyists or lobbying firms, the Clerk of the House maintains a search engine at <http://disclosures.house.gov/ld/ldsearch.aspx>. The Secretary of the Senate's searchable LDA reports can be found at [http://senate.gov/legislative/Public\\_Disclosure/LDA\\_reports.htm](http://senate.gov/legislative/Public_Disclosure/LDA_reports.htm).

**Figure 1. Lobbyist and Lobbying Firm Registrations, 2001-2010**

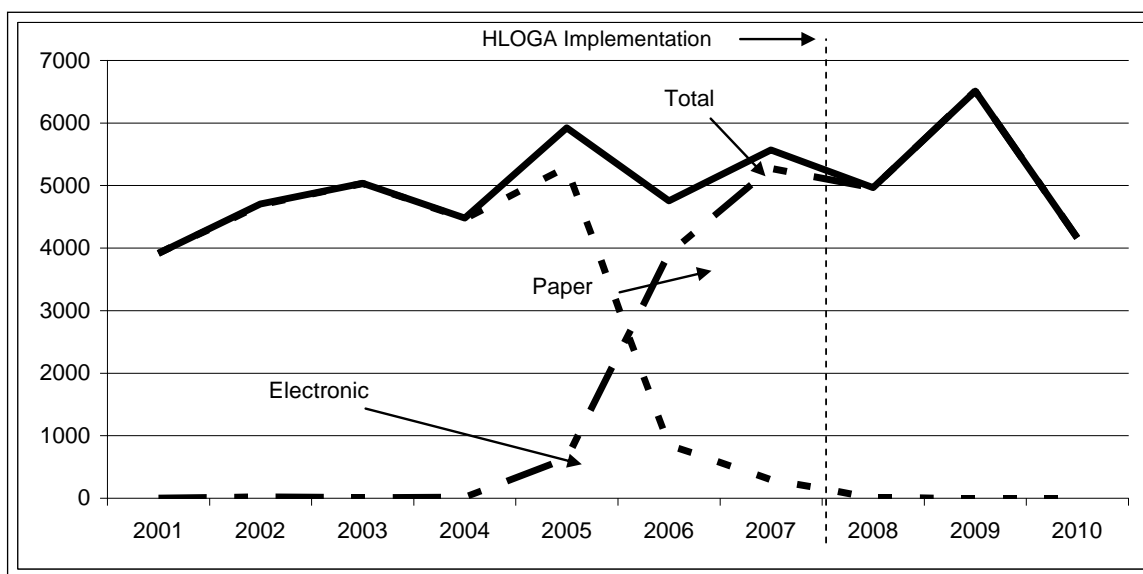
Total Number of New Registrations and Registration Amendments



**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>.

Immediately prior to the HLOGA amendments, the number of registrants amending their forms declined from a peak of 1,279 in 2002 to a low of 599 in 2007. Under the HLOGA, the number of registration amendment forms increased to 981 in 2008. The number of registration amendments decreased slightly (884) in 2009 and returned to 2007 levels in 2010 (587). The reason for the variation in registration amendments does not appear to follow a particular pattern. Instead, it appears that the filing of registration amendments might be governed by lobbyists' need to make changes based on hiring and firing of staff and recruitment of new clients.

The HLOGA amendments to LDA, for the first time, required electronic filing to the Clerk and the Secretary. The Clerk and the Secretary, however, have allowed lobbyists and lobbying firms to file registration forms electronically since 2002, when 0.38% of all registrations were filed electronically. Since 2009, 100% of all registrations were filed electronically. **Figure 2** shows the number of registrations filed electronically, on paper, and in total since 2001.

**Figure 2. Registration Filing by Method, 2001-2010**

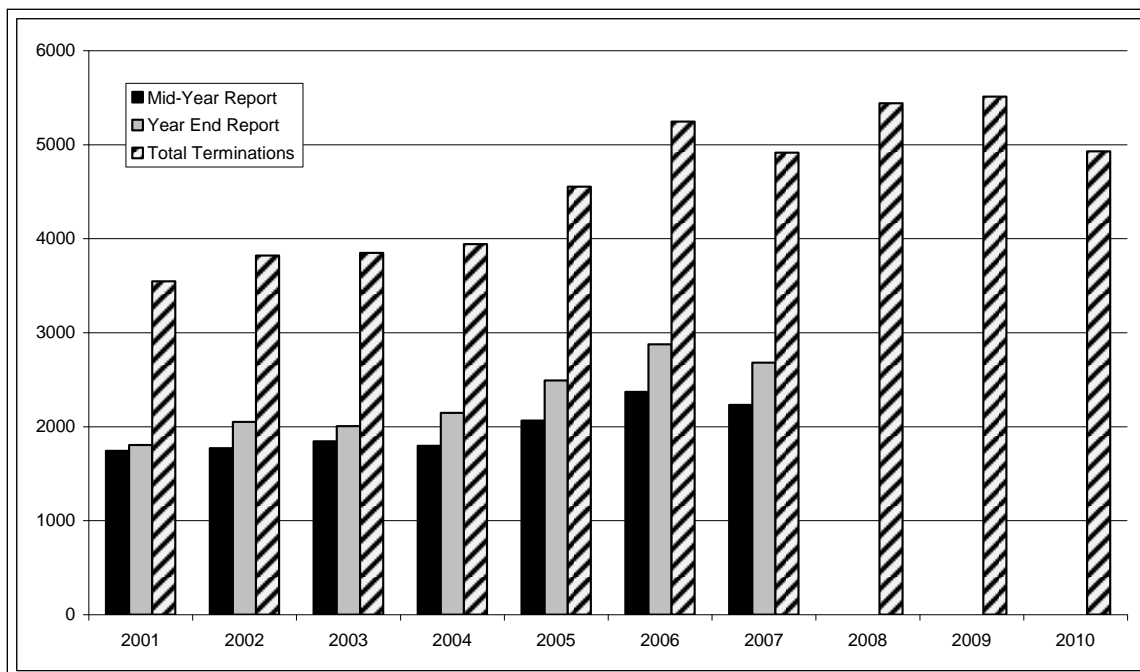
**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>.

Electronic submission of registration forms began to increase in 2005, when 10.7% of new registrants filed electronically. While filing electronically was not required prior to the HLOGA amendments, the number of registrations filed electronically increased significantly in 2006 and 2007. In 2006, the number of electronic registrations eclipsed paper registrations for the first time (82.2% of all registrations were filed electronically). By 2007, the number of registrations had again increased with 94.7% of lobbyists and lobbying firms filing electronically. Following the enactment of HLOGA, 99.9% of registrations were filed electronically in 2008, and 100% were filed electronically in 2009 and 2010.

## Termination

A lobbyist or lobbying firm that has gone out of business or is no longer representing a client is required to file a registration termination report with the Clerk and the Secretary. Under LDA, termination reports were filed on a semi-annual basis. **Figure 3** shows the number of registration termination reports filed during the mid-year reporting period (June 30), during the year-end reporting period (December 31), and the total number of terminations for the year (from 2001 to 2010).

Since 2001, the number of terminations has increased every year except for 2007 and 2010 when there was a slight decline in total terminations from the previous year. Overall, between 2001 and 2007 there appeared to be only a slight increase in terminations at year's end, compared with the mid-year reporting period. The difference may have existed because lobbyists and lobbying firms adjust clients and staff more at the end of congressional sessions. The difference could also be tied to the number of registrations. As more lobbyists and lobbying firms register with the Clerk and the Secretary, more termination forms may be submitted.

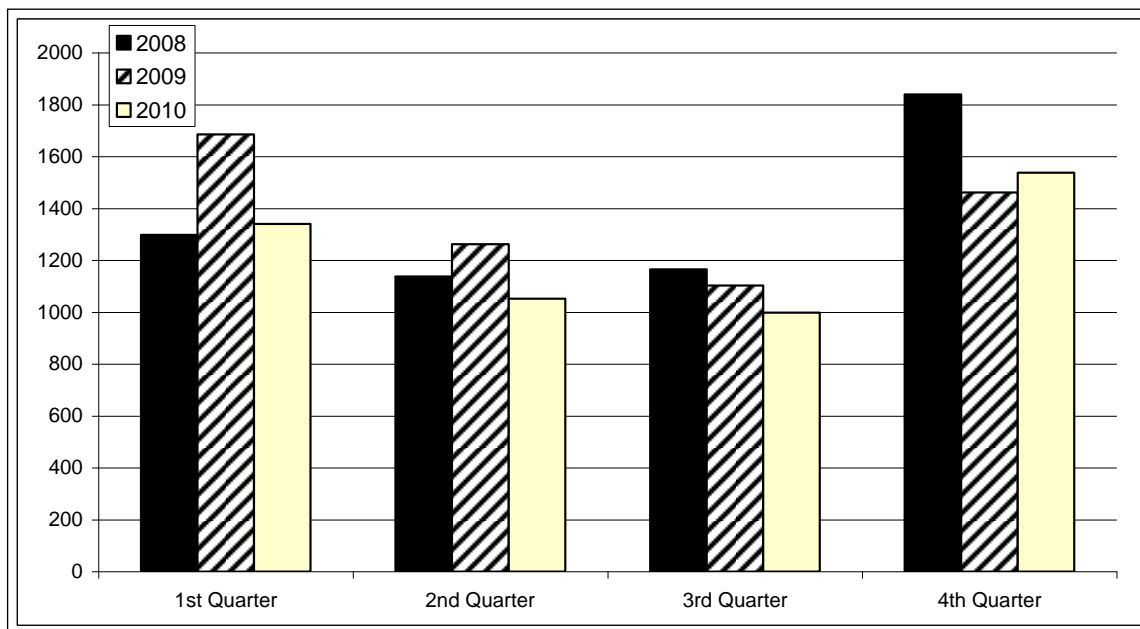
**Figure 3. Lobbyist and Lobbying Firms Termination Reports, 2001-2010**

**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>.

Pursuant to the HLOGA amendments, termination reports were changed from semi-annual reports to quarterly reports. **Figure 4** shows the quarterly termination reports filed between 2008 and 2010.

**Figure 4. Lobbyist and Lobbying Firm Termination Reports, 2008-2010**

Filed Under the LDA, as Amended by the HLOGA



**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>.

The trend toward a greater number of year-end terminations evident under the LDA continues under the HLOGA amendments. The number of terminations in the fourth quarter (an average of 1,651) is higher than for any of the previous three quarters. The first quarter (an average of 1,491) has the second-highest number of terminations. The number of registration terminations filed with the Clerk and the Secretary in the second quarter (an average of 1,200) and the third quarter (an average of 1,134) of between 2008 and 2010 were relatively consistent.

The difference in terminations in the fourth quarter of 2008 and the first quarter of 2009 may exist because, as previously stated, lobbyists and lobbying firms change clients and staff more frequently at the beginning and end of a Congress rather than during the sessions. Alternately, the increase in registration terminations could reflect the change in administration from a Republican to a Democratic White House. Since the LDA covers both legislative and executive branch officials, lobbyists and lobbying firms could adjust staffing levels to reflect changes in administration priorities and policy.

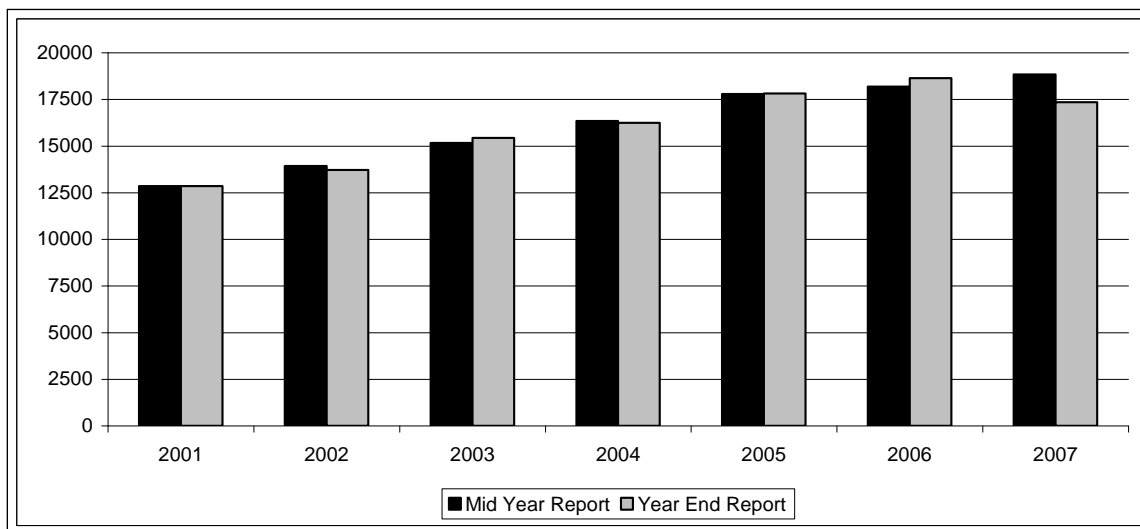
## Disclosure

Under the LDA, lobbyists and lobbying firms were required to file semi-annual reports disclosing certain information about clients, issues lobbied, government officials lobbied, an estimate of income generated from each client, and an estimate of total expenses incurred in connection with lobbying activities.<sup>27</sup> Since 2001, the number of disclosure reports filed has increased from a low of 12,853 disclosures in 2001 to a high of 19,178 in 2007. Although this could indicate an overall increase in lobbying activity, without additional data for the period under the HLOGA amendments, a definitive conclusion cannot be made. In most years, the number of year-end reports was slightly greater than the number of mid-year reports. This may reflect an increase in

<sup>27</sup> P.L. 104-65, 109 Stat. 697, December 19, 1995.

lobbying activity towards the end of a congressional session when additional efforts might be needed to ensure the passage of important legislation. **Figure 5** shows the number of mid-year and year-end reports filed by lobbyists and lobbying firms between 2001 and 2007.

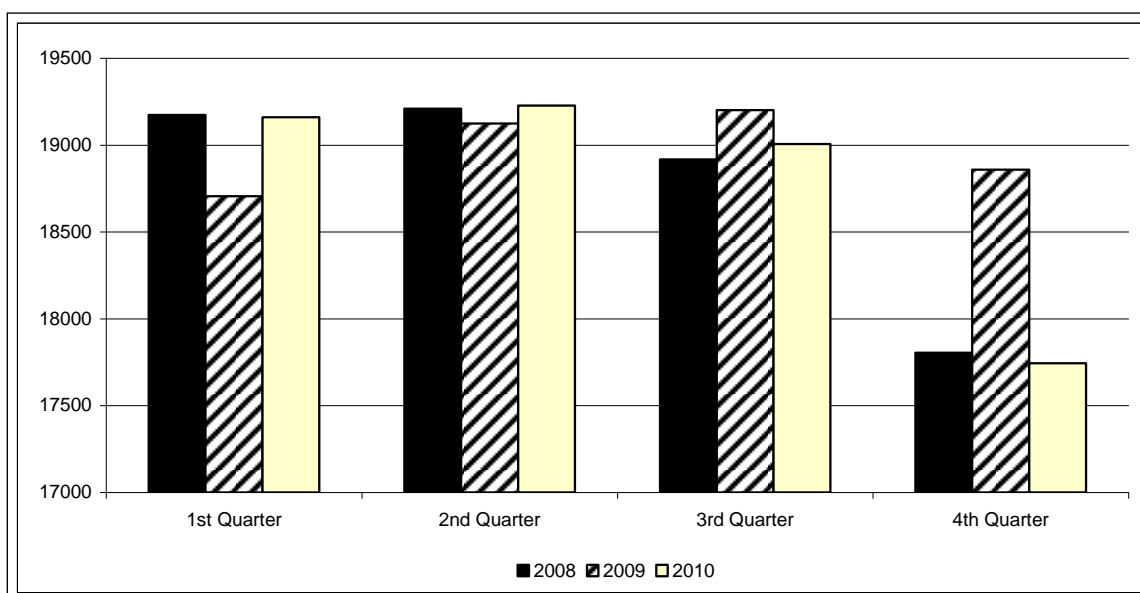
**Figure 5. Mid-Year and Year-End Disclosure Reports, 2001-2007**



**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>.

Pursuant to the HLOGA amendments, disclosure reports were changed beginning in 2008 from semi-annual reports to quarterly reports. For this reason, **Figure 5** does not contain a similar accounting of disclosure reports for 2008 and 2009. To reflect the reporting change, **Figure 6** shows the volume of quarterly disclosure reports filed between 2008 and 2010.

**Figure 6. Disclosure Reports, 2008-2010**



**Source:** Data compiled from U.S. Congress, Clerk of the House of Representatives, Lobbying Disclosure Search, <http://disclosures.house.gov/ld/ldsearch.aspx>

In 2008, the number of disclosure reports filed from one quarter to the next decreased from 18,615 during the first quarter to 16,372 in the fourth quarter. In 2009, the number of disclosure reports filed each quarter was slightly less than for 2008 for the first and second quarter and higher for the third and fourth quarters. Contrasted with an average of 18,270 mid-year and 17,937 year-end disclosure statements filed between 2005 and 2007 under the LDA, the decline in filings in the fourth quarters of 2008 and 2010 appears to be incongruous with the previous data. Data for 2008 and 2010 represent the end of a Congress. It is possible that the number of disclosures filed in the fourth quarter of 2008 and 2010 was a result of decreased lobbying activity. As a Congress completes its legislative agenda, the need to lobby Members declines.

## Conclusion

The impact of the HLOGA on the registration, termination, and disclosure of lobbyists and lobbying firms is mixed. In the three years since the HLOGA amendments were implemented, it appears the registration trends that existed between 2001 and 2007 continue under the HLOGA amendments. For termination, overall trends also continue, with an increase in terminations in the fourth quarter of 2008 and the first quarter of 2009. Since the first quarter of 2009, the number of terminations has stabilized and roughly mirrors the 2008 numbers. Overall, while terminations in 2008 and 2009 are greater than anytime between 2001 and 2007, the pattern of increased terminations in congressional election years, followed by a slight decline the following year, continues.

The most significant change in reporting occurred for the filing of disclosure statements. Instead of filing two reports per year on lobbying activity, lobbyists, and lobbying firms are required to report four times per year. Collecting the data in quarters instead of semi-annual periods appears to have uncovered a reporting trend that was otherwise obscured under the semi-annual system. For 2008 and 2010, the data shows an overall decline in disclosure reports for the fourth quarter. The data suggest that lobbyists and lobbying firms make more contacts and engage in a greater percentage of their lobbying activity in the first three quarters of the year than at the end of a congressional session. The year-end report data from 2001 to 2007, which included both third and fourth quarter activity, may have been motivated by third quarter activity that was previously included in year end reports. It is possible, however, that the 2008 and 2010 upticks in reporting reflect the transition to a new presidential administration coupled with the beginning of a new Congress.

For 2009, the volume of disclosure reports does not easily fit with the volume of reports for 2008 and 2009. Fourth quarter lobbying activity, as shown by the number of disclosure reports continues at a high level. This may reflect the continuation of Congress's legislative agenda from the first to the second session. In the 111<sup>th</sup> Congress, many issues that were initiated during the first session continued through an after-Thanksgiving session and into the second session. Lobbying for those provisions continued throughout that period.



## Appendix. Lobbying Registration and Disclosure Definitions

Pursuant to the Lobbying Disclosure Act, as amended by the Honest Leadership and Open Government Act of 2007 (Chapter 26, Title 2, *United States Code*), the following definitions are applicable to the registration and disclosure process.

**Table A-1. Definitions of Terms in the Lobbying Disclosure Act and Honest Leadership and Open Government Act**

Term	Definition
Agency	Has the meaning given in 5 U.S.C. § 551 (1). <sup>a</sup>
Client	Any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.
Covered executive branch official	The President; Vice President; any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President; any officer or employee serving in an Executive Schedule position, as designated by statute or Executive order; any member of the uniformed services whose pay grade is at or above O-7 under 37 U.S.C. § 201; and any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 5 U.S.C. § 7511 (b)(2)(B).
Covered legislative branch official	A Member of Congress; an elected officer of either House of Congress; any employee of, or any other individual functioning in the capacity of an employee of—(1) a Member of Congress, (2) a committee of either House of Congress, (3) the leadership staff of the House of Representatives or the Senate, (4) a joint committee of Congress and, (5) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).
Employee	Any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—independent contractors or volunteers who receive no financial or other compensation for their services.
Foreign entity	A foreign principal as defined by 22 U.S.C. § 611 (b).
Lobbying activities	Lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

Term	Definition
Lobbying contact	Any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—the formulation, modification, or adoption of Federal legislation (including legislative proposals); the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or the nomination or confirmation of a person for a position subject to confirmation by the Senate. <sup>c</sup>
Lobbying firm	A person or entity that has one or more employees who are lobbyists on behalf of a client other than that person or entity. Also includes a self-employed individual who is a lobbyist.
Lobbyist	Any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a three-month period.
Media organization	A person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.
Member of Congress	A Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.
Organization	A person or entity other than an individual.
Person or entity	Any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.
Public official	Any elected official, appointed official, or employee of a Federal, State, or local unit of government in the United States; <sup>d</sup> a Government corporation (31 U.S.C. § 9101); an organization of State or local elected or appointed officials (other than officials described in note <sup>d</sup> ); an Indian tribe (25 U.S.C. 450b(e)); a national or State political party or any organizational unit thereof; or a national, regional, or local unit of any foreign government, or a group of governments acting together as an international organization.
State	Each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**Source:** 2 U.S.C. § 1602.

**Notes:**

- a. Pursuant to 5 U.S.C. § 551 “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—(A) the Congress; (B) the courts of the United States; (C) the government of the territories or possessions of the United States; (D)

- b. the government of the District of Columbia; or except as to the requirements of section 552 of this title—  
(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them; (F) courts martial and military commissions; (G) military authority exercised in the field in time of war or in occupied territory; or (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; subchapter II of chapter 471 of title 49; or sections 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix.
- c. For a list of exemptions see 2 U.S.C. § 1602 (8)(b).
- d. This includes all elected and appointed officials and employees other than those of a college or university; a government-sponsored enterprise (2 USCS § 622 (8)); a public utility that provides gas, electricity, water, or communications; a guaranty agency (20 U.S.C. § 1085 (j)), including any affiliate of such an agency; or an agency of any State functioning as a student loan secondary market pursuant to 20 U.S.C. § 1085(d)(1)(F).

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